

Group II, claim 23, drawn to a method of treating type II diabetes comprising administering an inhibitor of the enzymatic activity of PTP-1B.

Restriction of claims 22 and 23 under 35 U.S.C. §120 is respectfully traversed. It is respectfully submitted that a search of the Group I claim (drawn to a method of using PTP-1B inhibitors) would, of necessity include a search of the Group II claim (drawn to another method of using the same inhibitors). Claims 22 and 23 represent alternate embodiments utilizing the same inhibitors identified from the knock out mouse that is the subject matter of this application. Said mouse, having altered glucose and fat metabolism compared with wild type mice, i.e. with deficient PTP-1B, was utilized to study the regulation/activity of the insulin receptor with PTP-1B. Both obesity and type II diabetes represent diseases having impaired insulin receptor function. See the description provided in the Specification beginning on page 10, line 20 through page 11, line 9 and page 12, lines 3-9 and 32-35. Accordingly, the assertion in the Office Action that the two claims are mutually exclusive and independent methods is not consistent with the mechanism provided by the Applicants. As such, no savings of PTO resources will be achieved by enforcing the restriction requirement presently asserted. At a minimum, Applicants respectfully request reconsideration of the grouping of claims to be consistent with the grouping asserted in the IPER of PCT Application No. PCT/CA99/00675, upon which this national application is based, and in which the method claims (claims 9-23) utilizing said PTP-1B inhibitors were grouped together.

Accordingly, reconsideration and withdrawal of the requirement for restriction by combining Groups I and II is respectfully requested. In order to be fully responsive, Applicants elect the invention defined by the Group I (i.e., claim 22) without prejudice to the prosecution of the non-elected claims in a related patent application.

Applicants retain the right to petition from the restriction requirement under 37 C.F.R. §1.144. Favorable reconsideration of the Restriction requirement is respectfully requested.

It is believed that the claims are in a condition for allowance and a notice to that effect is earnestly solicited.

If the Examiner believes that a telephone conference would be of value, he is requested to call the undersigned counsel at the number listed below.

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Any additional fees required in connection with this submission may be taken  
from Merck Deposit Account No. 13-2755.

Respectfully submitted,

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